IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 750 of 1998

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE M.S.SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DINESHKUMAR MOHANLAL SHETH

Versus

VADODARA MUNICIPAL CORPORATION

Appearance:
PARTY-IN-PERSON for Petitioner
MR PRANAV G DESAI for Respondent No. 1 & 2
MR SP HASURKAR for Respondent No. 3
MR RC KODEKAR, AGP for Respondent No. 4

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE M.S.SHAH

Date of decision: 20/12/2000

CAV JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

This petition is filed by Dineshkumar Mohanlal Sheth contending that he is entitled to be posted as a Food Inspector and has challenged the letter/order dated 5.1.1988 (Annexure "A" to the petition) issued by the Deputy Municipal Commissioner (Admn.) of the Vadodara Municipal Corporation calling upon the petitioner to perform the work of only Junior Clerk and not to work as a Food Inspector. There was no interim relief in favour of the petitioner and still the petitioner did not discharge the duties of a Junior Clerk for a long period and, therefore, the Corporation has initiated a departmental inquiry against the petitioner and has suspended him from service for disobedience of the orders of the superior authorities and for unauthorized absence. The departmental inquiry is pending against him on the ground that even though he was asked to perform the work of only Junior Clerk, he was taking the samples under the Prevention of Food Adulteration Act and has thus committed serious misconduct.

2. In view of the finding recorded by us in the judgment delivery today in Special Civil Application Nos. 1917/91 and cognate petitions that the post of Food Inspector is not a substantive post as such, but an employee of a local authority is to be designated as a Food Inspector by notifying his name as a Food Inspector in the official gazette, it cannot be said that the petitioner was substantively appointed as a Food Inspector. In any view of the matter, as far as the present petition is concerned, it appears that he is facing a departmental inquiry. We see no reason to entertain this petition when the petitioner has no substantive right to work as a Food Inspector as it is within the domain of the local authority to decide as to which of its employees notified as Foods Inspectors in the official gazette are to be assigned duties of Food Inspectors.

3. As far as the communication dated 5.1.1988 is concerned, we do not find any fault with the same as the Corporation has pointed out that the petitioner could not be assigned the duties of a Food Inspector when no such workload was available with the Corporation.

4. We dispose of this petition without going into the merits of the charges levelled against the petitioner which shall be duly adjudicated in the departmental enquiry. Such inquiry shall be disposed of as expeditiously as possible and preferably within three months from the date of receipt of the writ of this Court

or a certified copy of this order, whichever is earlier.

5. The petition stands disposed of accordingly.
Rule is discharged with no order as to costs.

(D.M. Dharmadhikari, CJ)

(M.S. Shah, J.)

sundar/-